

**THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**



LOCAL COURT RULES

Effective: May 1, 1998
As Updated Through September 14, 2001

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**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DAVID L. RUSSELL, CHIEF JUDGE

ROBIN J. CAUTHRON, DISTRICT JUDGE

TIM LEONARD, DISTRICT JUDGE

VICKI MILES-LAGRANGE, DISTRICT JUDGE

RALPH G. THOMPSON, SENIOR DISTRICT JUDGE

LEE R. WEST, SENIOR DISTRICT JUDGE

WAYNE E. ALLEY, SENIOR DISTRICT JUDGE

Doyle W. Argo, Magistrate Judge

Bana Roberts, Magistrate Judge

Gary M. Purcell, Magistrate Judge

Valerie K. Couch, Magistrate Judge

Robert E. Bacharach, Magistrate Judge

Ronald L. Howland, Recalled Magistrate Judge

**Shon T. Erwin, Magistrate Judge,
Part-time, Lawton, OK**

COUNTIES WITHIN THE WESTERN DISTRICT OF OKLAHOMA ARE:

Alfalfa	Comanche	Grant	Kiowa	Pottawatomie
Beaver	Cotton	Greer	Lincoln	Roger Mills
Beckham	Custer	Harmon	Logan	Stephens
Blaine	Dewey	Harper	Major	Texas
Caddo	Ellis	Jackson	McClain	Tillman
Canadian	Garfield	Jefferson	Noble	Washita
Cimarron	Garvin	Kay	Oklahoma	Woods
Cleveland	Grady	Kingfisher	Payne	Woodward

**Robert D. Dennis, Clerk
U.S. District Court
U.S. Courthouse, Room 1210
200 N.W. 4th Street
Oklahoma City, OK 73102
(405) 609-5000**

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOCAL COURT RULES

**LOCAL CIVIL RULES
AND
LOCAL CRIMINAL RULES**

PREAMBLE

AUTHORITY. These local rules of the United States District Court for the Western District of Oklahoma are promulgated under the authority of Title 28, United States Code, Section 2071; Rule 83 of the Federal Rules of Civil Procedure; and Rule 57 of the Federal Rules of Criminal Procedure. These local civil and criminal rules are promulgated to supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure with local court procedure.

UNIFORM NUMBERING. The Judicial Conference of the United States has required uniform numbering for all local court rules in conformity with the Federal Rules. They require a ".1" designation be added to the number of the Federal Rule of Civil or Criminal Procedure to indicate that the federal rule is being supplemented by a local civil or criminal court rule. For example, if Fed. R. Civ. P. 4 is being supplemented, the local civil rule is designated LCvR4.1; or if Fed. R. Crim. P. 5.1 is supplemented, it is designated LCrR5.1.1.

David L. Russell, Chief Judge

Effective Date: May 1, 1998
As Updated Through September 14, 2001

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

LOCAL COURT RULES

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**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOCAL CIVIL RULES

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

A. LOCAL CIVIL RULES

I. SCOPE OF RULES - ONE FORM OF ACTION.

LCvR1.1 Purpose and Scope of Rules.

These local civil rules are promulgated to supplement the Federal Rules of Civil Procedure with local court procedure not to be inconsistent with the federal rules. Appendix I contains a listing of General Orders which are available from the Court Clerk on request. General Orders are issued by the Court to establish procedures on administrative matters and less routine matters which do not affect the majority of practitioners before this Court. **The Supplement to the Local Civil Rules** contains the Plan for Alternative Dispute Resolution and Settlement Procedures and Rules of Practice of the Western District of Oklahoma.

LCvR1.2 Rules of Procedure.

(a) The rules of procedure in any proceeding in this Court shall be as prescribed by the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local rules.

(b) Where in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe the same.

(c) The trial judge has discretion in any civil or criminal case to waive any requirement of these local rules when the administration of justice requires.

(d) These local rules shall be known as the Local Civil Rules of the United States District Court for the Western District of Oklahoma. They may be cited as “LCvR__.”

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS.

LCvR3.1 Civil Cover Sheet and Complaint.

Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet, Form JS-44, which is available from the Court Clerk's office. Counsel and pro se litigants are required to number each party separately in the caption of the complaint, plaintiffs consecutively and defendants consecutively.

LCvR3.2 Advance Payment of Filing Fees.

Except as provided in LCvR 3.3 or by order of the Court in a specific case, the Clerk of this Court shall require payment of the filing fees before any civil action, suit or proceeding is filed.

LCvR3.3 In Forma Pauperis Applications.

(a) An applicant who seeks leave to proceed without prepayment of the filing fees, must, at the time of initiating the civil action, suit or proceeding, submit an application to proceed in forma pauperis on forms approved by this Court and supplied by the Clerk upon request. Failure to use such form or to furnish the Court with the equivalent information required by the form will result in the application being stricken.

(b) In the case of a prisoner, such application must also include a certificate executed by an authorized officer of the appropriate penal institution stating: (1) the amount of money or securities currently on deposit to the prisoner's credit in any institutional account; (2) the average monthly deposits to the prisoner's account for the six-month period immediately preceding the filing of the action; and (3) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the action.

(c) In the event that the prisoner has been in more than one penal institution during the six-month period immediately preceding the filing of the action, the prisoner must obtain the required certificate from the appropriate official at each institution.

(d) Pending the Court's ruling on the application, the civil action, suit or proceeding will be deemed conditionally filed.

(e) In the event the application is granted, the formal filing of the pleadings will relate back to the date the pleadings were conditionally filed. In the event the application is denied, the filing party shall have twenty (20) days, unless a different time is specified by the Court, within which to pay the required filing fees. Upon payment of the filing fees within this period, the formal filing of the pleadings shall relate back to the date the pleadings were conditionally filed. Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling.

LCvR3.4 Partial Filing Fees

(a) The Court will assess an initial partial filing fee and periodic monthly payments from all prisoners who bring a civil action in accordance with the provisions of 28 U.S.C. §1915(b). In addition, the Court may, in its discretion, require any other applicant who seeks leave to proceed in forma pauperis to pay an initial partial filing fee and/or periodic monthly payments in an amount to be determined by the Court.

(b) Failure of any applicant to pay the initial partial filing fee or any other payment ordered by the Court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by that date why the applicant cannot pay the fee shall be cause for dismissal of the action without prejudice to refiling. In no event, however, shall an applicant be prohibited from bringing a civil action for the reason that the applicant does not have any assets or present means to pay the initial partial filing fee.

(c) Unless otherwise directed by the Court, service of process will not issue until the applicant has paid the initial partial filing fee ordered by the Court.

LCvR3.5 In Forma Pauperis Applications by Persons Filing Habeas Corpus Actions Under 28 U.S.C. §2241, §2254, or §2255

In forma pauperis applications by persons filing habeas corpus actions under 28 U.S.C. §§2241, 2254, or 2255 are not governed by the Prison Litigation Reform Act and consequently will be addressed by the Court in its discretion. Any order granting an in forma pauperis application by a person filing a habeas corpus action may include a requirement that the applicant pay a partial filing fee and/or periodic

monthly payments as the Court determines reasonable until the full filing fee is paid.

LCvR3.6 Copyright, Trademark and Patent Cases.

Complaints filed in copyright, trademark and patent cases shall cite therein the copyright registration number, trademark number or patent number. If such number is unavailable at the time of filing, the complaint shall recite a serial number or other identification number obtained from the Registrar of Copyrights or the Commissioner of Patents and Trademarks.

LCvR4.1 Praeceptum.

Requests for the issuance of summons shall be in writing, signed by the requesting party or attorney of record, designating the name and address of each person to be served. If service is to be made on other than an individual, the name and address of the service agent, officer or partner to be served shall be named. The type of service required must be set out in the praecipe.

LCvR4.2 Appointment of Authorized Process Servers.

In addition to any judge or magistrate judge of this Court, the Clerk of this Court or the Chief Deputy Clerk is authorized to issue orders appointing any sheriff or deputy sheriff or authorized process server in any state or territory of the United States to serve any civil process issued out of this Court. A party requesting that a person be authorized to serve civil process should prepare a written request, stating the name of the person desired to be appointed and an order for the Clerk or Chief Deputy Clerk to sign designating such person as the one authorized to serve process in any given case.

LCvR5.1 General Format of Papers Presented for Filing; Change of Address; Proof of Service.

All pleadings, motions, applications, orders and briefs tendered to the Clerk for filing shall be double-spaced, if typewritten, and shall be on white bond paper, 8 ½ inches wide by 11 inches long, and only one side of the paper shall be used. Multiple page pleadings, motions and other papers tendered for filing shall be stapled or otherwise semi-permanently fastened at the top of the page without the use of

paper clips, binder clips or rubber bands. If the document is too large to staple, it should be two-hole punched at the top and secured with metal prongs. All pleadings and exhibits shall be clearly legible. Unless otherwise stated in these local rules, all pleadings, motions, applications, and briefs tendered to the Clerk for filing shall consist of an original plus one copy of each.

All pleadings shall contain the name, mailing address, daytime telephone number, and telecopier number, if any, of the attorney or pro se litigant. Notice of any change of address or telephone number of an attorney or pro se litigant must be given by filing the form provided by the Clerk and serving it on opposing counsel or pro se parties. Documents mailed by the Court will be deemed delivered if mailed to the last known address given to the Court.

Proof of service of any pleadings, motions or other paper required to be served shall be made by the certificate of any attorney of record or pro se litigant, or if made by any other person, the affidavit of such person.

LCvR5.2 Facsimile Filing.

- (a) No pleadings shall be directly telecopied to the Clerk of this Court.
- (b) Facsimile pleadings, including the signature page, may be presented for filing if those pleadings otherwise comply with the requirements stated in LCvR5.1. Parties who avail themselves of this procedure waive the defense regarding an original signature in any matter which may subsequently arise; provided, however, the parties may always assert upon proper evidence that a signature is not true and correct.

LCvR5.3 Discovery Material Not to Be Filed.

Depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Clerk unless on order of the Court or unless they are attached to a motion, response thereto, or are needed for use in a trial or hearing.

III. PLEADINGS AND MOTIONS.

LCvR7.1 Disclosure Statement.

Any non-governmental corporate party to an action in this court shall file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock. A party shall file the statement with its initial pleading filed in the court and shall supplement the statement within a reasonable time of any change in the information.

LCvR7.2 Motion Practice.

(a) **Filing.** No attached pleadings, motions or other papers shall be removed for filing from an original application, motion or request. Nor shall pleadings, motions or other papers be held by the Clerk for filing, awaiting leave to do so.

(b) **Title.** Each brief shall be clearly styled to show whether it is opening, response, reply or supplemental; the particular application or proceeding to which it relates; and the party or parties on whose behalf it is presented. If there are multiple parties or if there are cross-claimants or intervenors, references to them shall include the name (which may be abbreviated) of the particular party to whom reference is made.

(c) **Length and Format of Briefs.** No brief shall be submitted that is longer than twenty-five (25) typewritten pages without leave of Court. Applications for briefs in excess of twenty-five (25) typewritten pages shall state the requested number of pages and shall be filed no later than one (1) day prior to the date the brief is due. The print style, including footnotes, shall not be less than ten (10) characters to an inch (i.e. 12 pitch font), and margins shall be a minimum of one inch on the top, bottom and sides.

Briefs exceeding fifteen (15) pages in length shall be accompanied by an indexed table of contents showing headings or sub-headings and an indexed table of statutes, rules, ordinances, cases, and other authorities cited.

(d) **Authority.** Any authority not readily available, including statutes foreign to the jurisdiction and ordinances which are relied upon by a party shall be cited and quoted in or attached to the brief of the party.

(e) **Response Briefs.** Each party opposing a motion, application or objection shall file with the Clerk and serve upon all other parties a response within eighteen (18) days from the date the motion, application or objection was filed, and the copy served on opposing counsel shall reflect, either by file stamp or notation, the date of filing. Any motion, application or objection which is not opposed within eighteen (18) days may, in the discretion of the Court, be deemed confessed. The Court may shorten or lengthen the time in which to respond. Objections to trial documents, including motions in limine, are due five (5) days from the date of filing a trial document in accordance with the Court's scheduling order.

(f) **Requests for Extensions of Time.** All applications for extension of time shall state: (1) the date the act is due to occur without the requested extension; (2) whether previous applications for extensions have been made and the disposition of said requested extensions; (3) specific reasons for such requested extension to include an explanation why the act was not done within the originally allotted time; (4) whether the opposing counsel or party agrees or objects to the requested extension; and (5) the impact, if any, on the scheduled trial or other deadlines. All such applications shall be accompanied by a proposed order for the Court's use if such relief is granted. The proposed order shall state specifically the events being extended and the new dates for the deadlines.

(g) **Reply and Supplemental Briefs.** Reply and supplemental briefs are not encouraged and may be filed only upon application and leave of Court. They shall be limited to ten (10) pages in length unless otherwise authorized by the Court.

(h) **Factual Matters Not Part of the Record.** Factual statements or documents appearing only in briefs shall not be deemed to be a part of the record in the case, unless specifically permitted by the Court.

(i) **Motions Not Requiring Briefs.** No brief is required by either movant or respondent unless otherwise directed by the Court, with respect to the following motions: (1) applications for extension of time or a continuance of any proceeding before the Court; (2) to amend pleadings; (3) to file supplemental pleadings; (4) to appoint next friend or guardian ad litem; (5) for substitution of parties; (6) for motions to compel discovery responses when no response has been made; (7) to amend briefs; (8) to file supplemental motions, briefs or other papers; and (9) to file an oversized brief in compliance with subsection (c) above. Said motions not requiring briefs shall state whether opposing counsel agrees or objects to the request and shall be accompanied by a proposed order setting forth the relief requested.

(j) **Motions to Amend or Add Parties.** In a motion to amend or a motion to add parties, the movant shall state (1) the deadline date established by the scheduling order, if any, and (2) whether any other party objects to the motion. All such motions shall be accompanied by a proposed order which specifically sets forth what is being amended and/or the names of parties being added.

(k) **Motion and Brief as One Document.** A motion and the brief in support may be presented to the Court as one document if clearly stated in the caption of the pleading.

(l) **Notice to the Court of Matters Under Advisement for More Than Ninety (90) Days.** In the event any matter, including but not limited to, a motion or decision in a bench trial has been under advisement or submitted for decision for a period of more than ninety (90) days, each party affected by the undecided matter shall send to the judge a letter particularly describing the matter under advisement and stating the date the matter was taken under advisement.

LCvR7.3 Briefs for Bankruptcy Appeals.

(a) For a bankruptcy appeal, the appellant shall serve and file its brief within fifteen (15) days after the transmission of the record to the Clerk of the District Court. The appellee shall serve and file its brief within fifteen (15) days after service of the brief of the appellant. The appellant may serve and file a reply brief within ten (10) days after service of the brief of the appellee. Unless otherwise stated in this local rule, briefs for an appeal from the bankruptcy court are governed by the rules found at LCvR7.2.

(b) Unless otherwise ordered by the Court, oral argument as required by Bankruptcy Rule 8012 is excused.

LCvR9.1 Notice Requirement for Three-Judge Court.

In any action or proceeding which a plaintiff believes is required to be heard by three-judge district court under 28 U.S.C. § 2284, the plaintiff shall file with the complaint a separate notice to the Court, stating that a three-judge district court is requested or the equivalent thereto. If the plaintiff fails to give such notice, every other party shall file such notice, provided that as soon as a notice is filed by any party, all other parties are relieved of this obligation.

LCvR9.2 Actions Brought by Incarcerated Persons.

Petitions for writs of habeas corpus, motions to vacate sentence pursuant to 28 U.S.C. § 2255, and civil rights complaints pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971), by persons in state or federal custody, shall be on forms provided by the Clerk of this

Court upon request. Failure to use said forms or to supply the Court with the equivalent information required by the forms will result in the pleading being ordered stricken.

Petitioners or movants seeking postconviction relief shall send or deliver to the Clerk the original and two copies of the petition or motion. Plaintiffs submitting complaints for civil rights relief must submit the original and one copy of the complaint for the Court and one copy for each of the persons named as defendant in the complaint. If tendered for filing by mail, petitions, motions or complaints shall be addressed to the Clerk of the Court at an address designated by the Clerk.

Upon filing of a petition or motion for postconviction relief or civil rights complaint, as contemplated by this local rule, the Clerk shall mail a copy of the petition or motion, together with a notice of its filing, to the appropriate State Attorney General involved or the United States Attorney for the Western District of Oklahoma. The filing of such petition or motion shall not require an answer or other responsive pleading unless the Court orders otherwise.

LCvR16.1 Pretrial Procedures.

(a) Status and Scheduling Conferences.

(1) **Preparation for Status and Scheduling Conferences.** Prior to the first status and scheduling conference, trial counsel for all parties, and pro se parties, if any, shall confer and prepare a Joint Status Report. This conference may be combined with the discovery conference required by Fed. R. Civ. P. 26(f). The Joint Status Report shall include, to the extent then known, the contentions of each party and the issues of fact and law. It shall also contain a list of all exhibits, witnesses, and discovery materials to the extent then known, together with time estimates to complete discovery and trial. It shall be the duty of counsel for the plaintiff or pro se plaintiff to arrange this joint preparation and the duty of all counsel and pro se parties to jointly participate in and facilitate it. The information exchanged shall be incorporated into the Joint Status Report. This Joint Status Report will be prepared and signed jointly and filed as a single document with the Clerk of the Court no later than seven (7) calendar days prior to the status and scheduling conference. The parties shall file their discovery plan as required by Fed. R. Civ. P. 26(f) prior to or simultaneously with the Joint Status Report. (The Joint Status Report shall conform to the form provided herein as Appendix II and shall include the alternative dispute resolution information and requirements set forth in LCvR 16.3(c).)

(2) **Required Attendance at Conference.** Counsel with authority to make appropriate decisions and pro se litigants shall attend any conference required by the Court. When justified by the circumstances, the Court may allow counsel to participate in such conference by telephone. Pro Se litigants and counsel shall be prepared to discuss all relevant matters numerated in Fed. R. Civ. P. 16(c).

(3) **Exempted Cases.** Unless the Court orders otherwise, the categories of proceedings that are exempt from the initial disclosure requirements as identified in Fed. R. Civ. P. 26(a)(1)(E) and actions and proceedings commenced by the United States for forfeiture and/or debt collection shall be exempt from the pretrial procedures prescribed by this Rule.

(b) **Pretrial Responsibilities.**

(1) **Preparation of Status Reports, Final Pretrial Reports, and Other Orders.**

(A) Unless otherwise ordered by the Court, counsel for the plaintiff, with full and timely cooperation of other counsel and pro se parties, is responsible for preparing, obtaining approval of all parties, and furnishing the Court any status reports, pretrial reports or other pleadings required by the Court or these local rules.

(B) The clerk who keeps the minutes of the status and scheduling conference shall have forms available conforming to the form provided herein as Appendix III, whereby the time and/or date fixed by the Court for the performance of specified duties may be inserted. Upon request, counsel will be supplied with a copy of such form so that they may make their own notations of deadlines and of other orders prescribed by the judge presiding over the conference. Such executed form, when approved by the Court and filed, shall constitute the order of the Court as to such schedules without the necessity of filing any other order to the same effect. Unless otherwise directed by the assigned judge, the form and content of a jointly prepared, proposed, Final Pretrial Report, conforming to the sample form, provided herein as Appendix IV, shall be filed by plaintiff's counsel on or before the first day of the month that the case is scheduled for trial. Plaintiff's counsel shall file with the Court the jointly prepared Final Pretrial Report along with an extra copy for the Court and shall be accompanied by a proposed order approving the Report. The executed Pretrial Report, when approved by the Court, shall constitute an order of the Court as to all matters contained therein.

(2) **Default.** Failure to prepare and file a required status report, failure to comply with the Final Pretrial Report, failure to appear at a conference, appearance at a conference substantially unprepared, or failure to participate in good faith may result in any of the following sanctions: the striking of a pleading, a preclusion order, stay of the proceeding, default judgment, assessment of expenses and fees (either against a party or the attorney individually), or such other order as the Court may deem just and appropriate.

LCvR16.2 Judicial Settlement Conferences.

(a) **Purpose.** The purpose of the judicial settlement conference is to permit an informal discussion between the attorneys, parties, and the settlement judge on every aspect of the case bearing on its settlement value in an effort to resolve the matter before trial.

(b) **Referral and Scheduling the Settlement Conference.** All civil cases set on a trial docket are automatically set for settlement conference before the settlement magistrate judge. Also the Court may, upon its own motion or on the request of any of the parties, set a settlement conference at any practicable time. The conference shall be held before the settlement magistrate judge, any magistrate judge or district judge other than the judge assigned to the case.

(c) **Attendance Requirements.** The lead attorney who will try the case for each party shall appear, and shall be accompanied by one with full settlement authority. The latter will be the parties if natural persons, or representatives of parties which are not natural persons, but may not be counsel (except in-house counsel) or a person who is not directly or actively associated with the party or parties. Other interested entities such as insurers or indemnitors shall attend and are subject to the provisions of this Rule. Governmental entities and boards shall send a representative and counsel who, together, are knowledgeable about the facts of the case and the governmental unit's or board's position, and have, to the greatest extent feasible, authority to settle.

Only the settlement judge may excuse attendance of any attorney, party or party representative. Any party excused from appearing in person shall be available to participate by telephone, if required. Failure to attend the settlement conference or failure to cooperate fully, may result in the imposition of sanctions in accordance with LCvR16.1(b)(2) and Fed.R.Civ.P.16(f).

(d) **Submission of Written Settlement Conference Statements.** A settlement statement shall be submitted to the settlement judge and served on opposing counsel at least three (3) days preceding the date of the settlement conference unless otherwise ordered by the Court. It shall concisely summarize the parties' claims/defenses/counterclaims, etc., the parties' views concerning factual issues, issues of law, liability, damages or relief requested. The statement shall not exceed five (5) pages in length, shall conform to the format requirements set forth in LCvR5.1, but shall not be filed in the case or made part of the court file.

(e) **The Settlement Conference Process.** Prior to settlement conference, the parties should discuss settlement with their respective clients and opposing counsel (or pro se parties) so that the issues and bounds of settlement have been explored in advance of the settlement conference. The parties, their representatives and attorneys are required to be completely candid with the settlement judge so that the judge may properly guide settlement discussions. Pertinent evidence to be offered at trial, documents or otherwise, may be brought to the settlement conference for presentation if particularly relevant.

(f) **Authority of Settlement Judge.** The settlement judge may excuse attendance of any attorney, party or party's representative; meet jointly or individually with counsel, alone or with parties or persons or representatives interested in the outcome of the case without the presence of counsel; and issue such other and additional requirements as shall seem proper, including follow-up sessions telephonically or otherwise, in order to expedite an amicable resolution of the case.

(g) **Confidentiality.** The settlement judge, all counsel and parties, and any other persons attending the settlement conference shall treat as confidential all written and oral communications made in connection with or during any settlement conference. Neither the settlement conference statements nor communications during the conference with the settlement judge may be used by any party in the trial of the case. The settlement judge will not discuss the merits of the case with the assigned judge but may discuss the status of motions and other procedural matters.

(h) **Conclusion of the Settlement Conference.** At the conclusion of the settlement conference, the settlement judge shall notify the Court whether the case did or did not settle. If the case settled, counsel shall prepare and file the appropriate dismissal or closing papers.

LCvR16.3 Alternative Dispute Resolution and Settlement Procedures.

(a) **Purpose and Authorization.** In an effort to reduce cost and delay in federal civil litigation and further the delivery of fair, effective and timely judicial services, the Court authorizes the use of a variety of dispute resolution and settlement options, including trial options. Diverse Alternative/Appropriate Dispute Resolution (ADR) methods enable parties to use the process that promises to deliver the greatest benefits to a particular case. Such authorized procedures include, but are not limited to, mediation, early neutral evaluation, non-binding arbitration, and, in addition to the judicial settlement conference (LCvR16.2), other judicial procedures such as summary jury or summary bench trials, executive mini-trials or other abbreviated and cost reducing procedures as agreed to by the parties. The specific provisions for these proceedings are governed by the Plan for Alternative Dispute Resolution and Settlement Procedures and Rules of Practice, found in the **Supplement to the Local Civil Rules** and cited as “LCvR16.3 Supp. § __.”

(b) **Cases Eligible for Referral.** Any civil action is eligible and may be referred to any procedure under this rule and the ADR Rules, by the Court in its discretion, on its own motion, on the motion of any party, or by stipulation and agreement of the parties. Any bankruptcy proceeding as determined appropriate by the Bankruptcy Court or any bankruptcy appeal may be referred to any ADR or settlement option under the ADR Rules and may be administered pursuant to those rules. Referral to any ADR or settlement process under these rules shall not delay or stay other proceedings unless so ordered by the Court.

(c) **Certificate of ADR Discussions in Status Report.** Prior to the first status and scheduling conference, all counsel shall discuss the Court's ADR and settlement programs with their client(s) and opposing counsel and indicate whether the party elects to have the action referred to a specific procedure, if appropriate. Certification of these discussions must be submitted in conjunction with the Status Report filed pursuant to LCvR16.1. The brochure, *Resolving Disputes in Federal Court - Alternatives and Options for Civil Cases*, is available through the Court Clerk's office to assist with these discussions and shall be distributed to all parties at the first status and scheduling conference.

(1) **Selection of “Cost Reduction Trial Track.”** If the “Cost Reduction Trial Track” (LCv16.3 Supp. §10.1 et seq.) is selected and agreed to by the parties prior to the first status and scheduling conference, counsel shall mark the appropriate space on the Joint Status Report form, attach

to the Status Report or bring to the conference for further discussion and judicial approval the Agreement and Stipulation of all Parties Adopting the “Cost Reduction Track” With Limited Discovery and Pretrial Requirements (LCvR16.3 Supp.- Exhibit II).

(2) **Court-Annexed Arbitration.** To satisfy requirements of non-binding arbitration concerning eligibility of a case (LCvR16.3 Supp. §5.1, at §5.2(c)(2)), counsel must complete the amount of damages certification and otherwise comply with Section 12B in the initial Status Report (Appendix II).

(d) **Request for Referral, Relief from Referral, Substitution of Programs and Reports of Settlement.** In addition to section (c) above, counsel may file an application requesting any ADR or other settlement procedure at any time and may contact the ADR Administrator at any time to discuss options. Relief from referral to a specific process may be requested, for good cause shown, by application to the assigned judge at least one week prior to the date on which the ADR is scheduled. Request for substitution of another program in lieu of the original referral may be made, and any original referral may be held in abeyance pending the result of the substituted process. Any settlement or other final disposition prior to the date of the scheduled settlement or ADR procedure must immediately be reported to the assigned judge or selected ADR Panel Member and ADR Staff.

(e) **Confidentiality and Limitations of Use of Settlement Information.** The Court intends that the ADR and settlement procedures have the degree of confidentiality that is necessary to effectuate the purpose of each procedure and have the appropriate limits on the use of any information ascertained from any of the settlement encouraging processes as the law may allow.

Parties, counsel, and neutrals may respond to confidential surveys by persons authorized by the Court to evaluate the programs and any such information gathered shall remain confidential and shall not be identified with particular cases. Any motions by counsel or reports by a neutral, including those concerning non-compliance with the local rules or the ADR Rules, shall not otherwise violate the confidentiality or limitations on use of settlement information of any section of these rules.

IV. PARTIES.

LCvR17.1 Parties Who Are Not Natural Persons.

Parties who are not natural persons may not appear pro se.

LCvR21.1 Notice of Bankruptcy Filing.

In the event a party to a civil case files bankruptcy, or an involuntary bankruptcy proceeding is commenced against a party, counsel or the party, if pro se, shall notify the Court within five (5) days of the filing of said bankruptcy by filing a formal notice in the civil case, with proof of service to all parties.

V. DEPOSITIONS AND DISCOVERY.

LCvR26.1 Required Disclosures and Discovery Plans.

(a) In addition to the disclosures required by Fed. R. Civ. P. 26(a)(1) and 26(a)(2), each party shall include with its Initial Disclosures the identity of any known expert witness the party intends to call, together with the expert's qualifications, a statement of the substance of the expert's expected testimony, and a summary of the grounds for the expert's opinion. The supplementation requirements of Fed. R. Civ. P. 26(e) shall apply to disclosures required under this Rule.

(b) All exhibits shall be physically exchanged or viewed and examined on or before the date and in the sequence specified in the scheduling order, or if no date is specified, three (3) days prior to the date for the submission of the proposed pretrial report.

(c) The discovery plan required by Fed. R. Civ. P. 26(f) shall conform to the form provided herein as Appendix II-A and shall be filed prior to or simultaneously with the Joint Status Report as provided by LCvR16.1, no later than seven (7) calendar days prior to the first status and scheduling conference.

LCvR30.1 Depositions.

Subject to an order of the Court entered for cause shown enlarging or shortening the time:

(a) a subpoena to compel a witness to attend a deposition as contemplated by Fed. R. Civ. P. 30(a)(1), shall be served on the witness at least five (5) days prior to the date of the deposition; and

(b) reasonable notice to parties as contemplated by Fed. R. Civ. P. 30(b)(1) for the taking of depositions shall be five (5) days.

LCvR33.1 Interrogatories.

Each answer to an interrogatory shall be immediately preceded by the interrogatory being answered. Interrogatories inquiring as to the existence, location and custodian of documents or physical evidence shall each be construed as one interrogatory. All other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories.

LCvR36.1 Admissions.

Without leave of Court or written stipulation of the parties, the number of requests for admissions for each party is limited to twenty-five (25).

LCvR37.1 Informal Conference to Settle Discovery Disputes.

With respect to all motions or objections relating to discovery pursuant to Fed. R. Civ. P. 26 through 37 and 45, this Court shall refuse to hear any such motion or objection unless counsel for movant first advises the Court in writing that counsel personally have met and conferred in good faith and, after a sincere attempt to resolve differences, have been unable to reach an accord. However, no personal conference shall be required where the movant's counsel represents to the Court in writing that movant's counsel has conferred with opposing counsel by telephone and (1) the motion or objection arises from failure to timely make a discovery response, or (2) distance between counsels' offices renders a personal conference infeasible. When the locations of counsels' offices, which will be stated with particularity by movant, are in the same city or within thirty miles of each other, a personal conference is always deemed feasible as to distance.

VI. TRIALS.**LCvR39.1 Opening Statements and Closing Arguments.**

The Court will determine specific time limits for opening statements and closing arguments on a case-by-case basis.

LCvR39.2 Courtroom Decorum.

Each judge will direct parties, either orally or by written statement, regarding appropriate and proper courtroom decorum.

LCvR39.3 Use of Electronic Devices, Photographs or Tape Recorders at Trial.

(a) The taking of photographs and operation of tape recorders and radio or television broadcasting in the courthouse during the progress of or in connection with judicial proceedings, including proceedings before a United States Magistrate Judge, whether or not Court is actually in session, is prohibited.

(b) A judge may, however, permit the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

(c) The Court prohibits the use of cellular telephones, pagers, or other electronic communication devices in the courtroom. Such devices may be carried on the person within a courtroom only if the device is turned off or non-auditory.

LCvR39.4 Use of Exhibits at Trial.

(a) **Marking and Disclosure.** All exhibits and documents which are to be introduced in evidence are to be marked for identification, which shall include the case number, and exhibited to opposing counsel at least three (3) calendar days before submission of the pretrial order. (See LCvR26.1(b)).

(b) **Withdrawal.** Unless otherwise ordered by the Court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The Court may order the party introducing exhibits which are bulky, heavy, firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.

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(c) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings on a blackboard may, under the supervision of the Court, be photographed for use on appeal or otherwise.

LCvR40.1 Assignment of Cases for Trial.

The placing of actions upon the trial calendar will be as announced at status and scheduling conference, unless trial setting is not required.

LCvR41.1 Notice of Dismissal; Stipulation of Dismissal.

Notice of dismissal or stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1), shall be filed with an original plus two copies.

LCvR43.1 List of Witnesses and Exhibits in Civil Cases.

At the commencement of the trial of a civil case or any civil proceeding in which witnesses and exhibits are utilized, the attorneys shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the witnesses they expect to call as a witness in chief and the exhibits they intend to introduce on the forms provided by the Clerk for this purpose.

LCvR47.1 Attorney Communication With Jurors.

At no time, including after a case has been completed, may attorneys approach or speak to jurors regarding the case unless authorized by the Court, upon written application.

VII. JUDGMENT.

LCvR54.1 Costs.

A prevailing party who seeks to recover costs against an unsuccessful party pursuant to 28 U.S.C. § 1920 shall file a bill of costs on the form provided by the Clerk and support the same with a brief. The bill of costs and brief shall be filed and served not more than fourteen (14) days after entry of judgment. A motion for recovery of costs with brief shall be a separate document from the motion for legal fees and its brief.

The original and one copy of the verified bill of costs shall have endorsed thereon proof of service upon the opposite party. The prevailing party shall provide either receipts, documents or an affidavit in support of the requested itemized costs. Objections to the allowance of costs must be filed within fifteen (15) days from the date the bill of costs was filed. As soon as practicable after the period for filing objections has elapsed, the Clerk will consider the bill of costs. After consideration of the bill of costs and any objections, the Clerk will make disposition and ruling on the bill of costs allowing or disallowing the items in whole or part. If a bill of costs is properly and timely filed and no written objection thereto is filed within the time herein specified, the claimed costs may be allowed in full.

LCvR54.2 Civil Attorney Fees.

A prevailing party who seeks to recover attorney fees against the unsuccessful party shall file a motion for recovery of legal fees and support the same with a brief and affidavit. A motion for recovery of legal fees with brief shall be a separate document from the motion for costs and its brief. The brief should recite the statutory, contractual, and/or legal authority for the request and, in an affidavit, the amount of time spent on the case, the hourly fee claimed by the attorney, the hourly fee usually charged by the attorney if this differs from the amount claimed in the case, and any other pertinent factors. Objections to the allowance of attorney fees must be filed within eighteen (18) days from the date the motion for attorney fees is filed.

LCvR54.3 Non-Binding Arbitration or Other ADR of Attorney's Fee Disputes.

After the Court determines that the prevailing party is entitled to recover attorney's fees against the unsuccessful party, the Court may refer the matter to arbitration regarding the reasonable amount of attorney's fee awardable in the case when the parties consent to referral of the issue to arbitration.

Arbitration proceedings under this Rule shall be conducted according to the procedures set forth in 28 U.S.C. § 651 et seq. and LCvR16.3 Supp. §5.1, et seq. including the provisions regarding arbitration awards and judgments and trial de novo. In the event either party demands a trial de novo, the Court may take evidence in any manner the Court deems proper including, in its discretion and notwithstanding any rule to the contrary, review of any transcripts of the arbitration proceeding.

Counsel may also stipulate in writing to waiver of the right to trial de novo following the award, and elect to proceed in voluntary binding arbitration. Any other ADR process may be selected and agreed to by the parties, if appropriate.

LCvR56.1 Summary Judgment Procedure.

- (a) Absent leave of Court, each party may file only one motion under Fed. R. Civ. P. 56.
- (b) The brief in support of a motion for summary judgment (or partial summary judgment) shall begin with a section that contains a concise statement of material facts to which the moving party contends no genuine issue of fact exists. The facts shall be numbered and shall refer with particularity to those portions of the record upon which movant relies.
- (c) The brief in opposition to a motion for summary judgment (or partial summary judgment) shall begin with a section which contains a concise statement of material facts to which the party asserts genuine issues of fact exist. Each fact in dispute shall be numbered, shall refer with particularity to those portions of the record upon which the opposing party relies and, if applicable, shall state the number of the movant's facts that is disputed. All material facts set forth in the statement of the material facts of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of material facts of the opposing party.

LCvR62.1 Stays Pending Disposition of Motions After Judgment.

Unless otherwise directed by the Court, all proceedings to enforce a judgment are stayed pending the disposition of the following motions:

- (a) new trial or to alter or amend a judgment made pursuant to Fed. R. Civ. P. 59;
- (b) relief from judgment or order made pursuant to Fed. R. Civ. P. 60;
- (c) judgment as a matter of law made pursuant to Fed. R. Civ. P. 50; or
- (d) to amend the findings or for additional findings made pursuant to Fed. R. Civ. P. 52(b).

LCvR62.2 Supersedeas Bonds and Other Security.

- (a) **Scope of Rule.** Whenever a security, bond or undertaking is required by federal statute, the Federal Rules of Civil Procedure, or by an order of the Court, and the form or amount thereof is not

otherwise specified in or determined by the statute, rule or order, the amount and form thereof shall be as provided by this local rule.

(b) **Security for Costs.** On its own motion or upon motion of a party in interest, the Court may at any time order any party to give security, bond or undertaking in such amount as the Court may order for the payment of costs or for performance of other conditions or requirements imposed in an action or proceeding.

(c) **Corporate Surety.** No security, bond or undertaking with corporate surety shall be accepted or approved unless (1) the corporate surety is in compliance with the provisions of 31 U.S.C. §§ 9301-09, and (2) there is on file with the Clerk a duly authenticated power of attorney appointing the agents or officers executing such obligation to act on behalf of the corporate surety. If an agent or officer so appointed is removed, resigns, dies or becomes disabled, the corporate surety shall notify the Court in writing.

(d) **Cash or Negotiable Bonds of the United States.** In lieu of corporate surety, a party may deposit with the Clerk the required amount in lawful money or negotiable bonds of the United States accompanied by a written instrument, to be approved by the Court, executed and acknowledged by the party and setting forth the conditions upon which the deposit is made. Where the true owner is other than the party making the deposit, the instrument shall so state and shall also be executed and acknowledged by the true owner. Upon exoneration of the deposit, it may be returned by the Clerk to the named true owner, after application to claims of the United States in the proceedings and to proper fees of the Marshal and Clerk.

(e) **Submission to Jurisdiction - Agent for Service of Process.** Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security is subjected to the jurisdiction of this Court. The Clerk of the Court is irrevocably appointed agent upon whom any papers affecting the surety's or depositor's liability may be served, and consents that liability shall be joint and several, that judgment may be entered in accordance with the obligation simultaneously with judgment against the principal, and that execution may thereupon issue against the appropriate property.

(f) **Further Security for Justification of Personal Sureties.** Upon reasonable notice to the party presenting the security, any other party for whose benefit it is presented may apply to the Court at any time for further or different security or for an order requiring personal sureties to justify.

(g) **Court Officers Not Allowed as Sureties.** Unless a party to the action, no clerk, marshal, member of the Bar, or other officer of this Court will be accepted as surety, either directly or indirectly, on any bond or undertaking in any action or proceeding in this Court.

VIII. PROVISIONAL AND FINAL REMEDIES.

LCvR67.1 Deposit and Withdrawal of Funds in Court.

In cases where a party depositing funds with the Clerk desires that the funds be invested with a named institution, the order shall so specify but, in the absence of specific directions to the contrary, all registry funds will be invested in a general interest-bearing account in the bank selected for that period through appropriate bidding procedures.

Counsel obtaining an order for monies to be deposited with the Clerk shall cause a copy of the order to be served personally upon the Financial Administrator of the Court. The Clerk or Chief Deputy Clerk may accept service on behalf of the Financial Administrator.

Any order obtained by a party directing the Clerk to deposit monies shall include:

- (a) The amount to be invested;
- (b) The name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;
- (c) A designation of the type of account or instrument in which the funds shall be invested;
- (d) Wording which directs the Clerk to deduct from the income earned on the investment a fee at the rate of ten percent (10%) of interest earned without further order of the Court, but in no event to exceed that amount authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

A party obtaining an order directing investment of funds into a specific designated account shall, no later than ten (10) days after service of the order to the Clerk, file with the Clerk a statement verifying or disavowing that the funds have been invested as ordered. Failure to so verify or disavow shall release the Clerk from any liability for loss of earned interest on such funds.

Counsel shall notify the Clerk regarding disposition of specific designated account funds at maturity of a timed instrument no later than ten (10) days after such disposition. In the absence of such notice, the Clerk will redeposit said funds, together with any interest thereon.

LCvR67.2 Disbursement of Registry Funds.

All checks drawn by the Clerk of this Court on deposits made in the registry of the Court shall be made payable to the order of the payee or payees as the name or names thereof shall appear in the orders of this Court providing for distribution.

Disbursements from the registry of the Court shall be made immediately upon receipt of order for disbursement except in cases where it is necessary to allow time for a check or draft to clear, or in cases where an order is appealable and must be held until the time for appeal has expired. The order for disbursement shall include the social security number or tax identification number of the recipient of accrued interest.

IX. SPECIAL PROCEEDINGS.

LCvR72.1 Magistrate Judges - Nonconsent Appeals and Objections.

(a) The objection to any order or report and recommendation entered by a Magistrate Judge on any nonconsent matter shall be filed within twenty (20) days of the date the order or report and recommendation is either pronounced in open court or filed, unless otherwise directed by the Court.

(b) Unless the Court directs otherwise, a party shall not file a response to the other party's objections to the proposed findings and recommendations of the Magistrate Judge.

LCvR73.1 Magistrate Judges - Consent Authority.

(a) With the consent of the parties, each full-time United States Magistrate Judge appointed by this Court is specifically designated to exercise the authority and jurisdiction provided by 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, to conduct any or all proceedings in a jury or non-jury civil matter and to order the entry of judgment in the case.

(b) The parties may consent to Magistrate Judge jurisdiction at any time during the pendency of a case.

(c) The joint form of consent shall be executed by the parties unless one of the parties is a pro se prisoner, in which case separate consent forms may be submitted.

X. DISTRICT COURTS AND CLERKS.

LCvR78.1 Oral Arguments.

Oral arguments or hearings on motions, applications or objections will not be conducted unless ordered by the Court.

XI. GENERAL PROVISIONS.

LCvR81.1 Removed Actions - Demand for Jury Trial.

Unless demanded in the state court, trial by jury is waived in any case removed from a state court unless a demand for a jury trial is filed and served within ten (10) days after the notice of removal is filed if the party is the one who filed the removal, or if not the one who filed the removal within ten (10) days after receiving service of the notice of removal.

LCvR81.2 Removed Actions - Documents to be Filed.

A defendant or defendants who remove a civil case from the state court to this Court shall, in addition to filing a notice of removal, file a clearly legible copy of all documents filed or served in the case, along with a certified copy of the docket sheet of the case. The defendant or defendants shall provide to the Court an extra copy of any motion pending before the state court at the time of removal.

LCvR81.3 Removed Actions - Bankruptcy.

A notice of removal from state court filed pursuant to Fed. R. Bankr. Pro. 9027 shall be filed with the bankruptcy clerk. All such removed claims and causes of action are hereby referred to the appropriate bankruptcy judge to be heard and, unless withdrawn by a district judge, such bankruptcy judge shall enter appropriate orders and judgments, subject to review by a district judge or appeal to a district judge as appropriate under 28 U.S.C. §§ 157 and 158 and the Federal Rules of Bankruptcy Procedure.

LCvR83.1 Committee on Local Civil Rules.

The Court hereby constitutes a committee on local civil rules comprised of five (5) members of the bar of this Court and the Clerk of this Court or the Clerk's designee. The Chief Judge will appoint five (5)

members of the bar of this Court for the committee to serve terms of no more than three (3) years.

The committee on local civil rules is established for the purpose of receiving comments and recommendations from any member of the bar of this court or any other interested person. The committee will make recommendations to the Court by December 15th of each year, and the Court will act on those recommendations by February 15th of the following year.

LCvR83.2 Attorneys.

(a) **Roll of Attorneys.** The bar of this Court shall consist of those attorneys admitted to practice before this Court who have taken the prescribed oath and who have signed the roll of attorneys of this judicial district.

(b) **Committee on Admissions and Grievances.** There is hereby constituted a Committee on Admissions and Grievances, consisting of five (5) members of the bar of this Court, who shall be appointed by the judges of this Court and who shall serve for a term not to exceed three (3) years.

(c) **Procedure for Admission.** Every applicant for admission shall file with the Clerk, on a form prescribed by the Court, a written petition for admission, which shall be referred immediately to the Committee on Admissions and Grievances for investigation into the applicant's qualifications and fitness to be admitted to the bar of this Court. The Committee shall report its recommendations in writing to the Clerk of this Court. Upon a favorable report of the Committee, the applicant may be admitted. Twice each year, following the Oklahoma State Bar Association Swearing-In Ceremonies before the Supreme Court of Oklahoma, an admission ceremony will be scheduled by this Court. All applicants are directed to attend the admissions ceremony, unless excused by the Court. Individual judges may, from time to time, in emergency situations upon special request admit individual lawyers who have been approved by the committee.

(d) **Eligibility.** Any member of the Bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the Bar of the highest court of any state of the United States, is eligible for admission to the Bar of this Court.

(e) **Reciprocity.** Any attorney who shall have been admitted to practice in any other Federal District Court of Oklahoma may be admitted to practice in this district upon the motion of a member of the Bar, in open court, without the filing of a formal application.

(f) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this Court in all cases or proceedings in which they represent the United States or such agencies.

(g) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the Bar of this Court may in the discretion of a judge of this Court be granted temporary admission to practice in a pending case. Attorneys requesting such admission are required to attach to their application a completed Request for Admission Pro Hac Vice form provided by the Court Clerk's office along with a required \$25.00 fee.

LCvR83.3 Association of Local Counsel.

(a) **Responsibilities of Non-Resident Counsel.** When representing a party in this Court, any attorney who is not a resident of, and does not maintain an office in Oklahoma, shall show association with an attorney who is personally appearing in the action and who is a resident of the State and maintains a law office within the State of Oklahoma, and who has been duly and regularly admitted to practice in this Court.

(b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any civil case to file the application of the non-resident attorney to be admitted pro hac vice and to certify in the application that the non-resident attorney is a member in good standing of the Bar of the highest court of the state where the non-resident attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading or other paper may be served upon the local attorney with the same effect as if personally served on the non-resident attorney.

(c) **Relief from this Rule.** Relief from this rule is within the Court's discretion upon application establishing financial hardship, special qualifications of non-resident counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local civil court rules.

LCvR83.4 Appearance of Counsel.

An attorney appearing for a party in a civil case shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Clerk of this Court.

In the event a party should change counsel or add additional counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Clerk of this Court.

LCvR83.5 Attorney Withdrawal From Case.

In civil cases, attorneys of record shall not withdraw from the case except by leave of the judge to whom the case is assigned, upon reasonable notice to the client and all other parties who have appeared in the case. Withdrawal of counsel may be granted subject to the conditions stated by the Court, including the condition that subsequent papers may continue to be served upon counsel for forwarding purposes or upon the Clerk of the Court, as the Court may direct, unless and until the client appears by other counsel or pro se, and any notice to the client shall so state and any filed consent of the client shall so acknowledge.

LCvR83.6 Discipline by the Court.

(a) **Discipline by Other Courts; Criminal Convictions.** Whenever it appears to the Court that any member admitted to practice in this court, including those persons admitted pro hac vice, has been suspended, disbarred or resigned pending disciplinary proceedings from the practice of law by the Supreme Court of Oklahoma or by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic disbarment of the attorney's right to practice in this Court, and an order of disbarment shall be issued by the Court. The order of disbarment shall remain in effect unless, within thirty (30) days from the date of the order of disbarment, the attorney has by motion to the court shown good cause as to why disbarment should not be imposed.

(b) **Standard Governing Attorney Conduct.** The Court adopts the Oklahoma Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Oklahoma as the standard governing attorney conduct in this Court.

(c) **Misconduct.** Complaints of professional misconduct, including those referred by judges, shall be submitted to the Chief Judge in writing and shall state with particularity the circumstances out of which the charges arose. Complaints submitted by counsel are subject to Fed. R. Civ. P. 11. All other complaints of professional misconduct, except those submitted by judicial officers of this court, shall be under oath.

Upon receipt of a complaint regarding the professional conduct of an attorney, the Chief Judge or the designee of the Chief Judge shall determine whether:

(1) The inquiry should be terminated because the question raised is unsupported or insubstantial;

(2) The alleged professional misconduct justifies further inquiry and, for members of the Oklahoma Bar Association, the matter should be referred to the Office of the General Counsel of the Oklahoma Bar Association for investigation and prosecution by that Office, if warranted;

(3) The alleged professional misconduct warrants consideration of prompt disciplinary action by this court regarding the attorney's right to practice before the court, and the matter should be referred to the court's Committee on Discipline for investigation, notwithstanding concurrent reference of the matter to the Office of the General Counsel of the Oklahoma Bar Association;

(4) The alleged professional misconduct of an attorney not a member of the Oklahoma Bar Association justifies further inquiry by the court and should be referred to a committee on discipline appointed by the court for investigation. Any attorney whose conduct in this court is under investigation by the Committee on Discipline shall not be admitted pro hac vice until the pending investigation is concluded.

Upon determination that an action is appropriate under subsections (c) (2), (3) or (4) above, the Chief Judge or the designee of the Chief Judge shall provide a copy of the written allegations to the attorney whose conduct is the subject of the complaint. Nothing herein contained in this rule shall limit the right of an individual judge to manage the cases assigned to that judge, which right shall include the authority to impose any sanctions, penalties or other restrictions which may be appropriate in a particular case.

(d) **Right to a Hearing.** Except as provided in subsection (a) above, this Court shall not impose any disciplinary action affecting an attorney's right to practice before the Court until after a hearing on the matter has been held before a three-judge panel as designated by the Chief Judge and upon a showing of good cause. In no instance shall a judge who referred the charge of misconduct sit on the three-judge panel. The attorney may waive the right to a hearing. At the hearing, the attorney whose conduct is the subject of the complaint shall be afforded an opportunity to appear in person and/or by counsel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing. If not called by the attorney whose conduct is being investigated, it is within the discretion of the three-judge panel to call the complaining party to appear at the hearing. This rule shall not apply to sanctions, penalties or other restrictions imposed by a judge which are applicable only to a particular case pending before that judge.

(e) **Sanctions.** Discipline by this Court may include disbarment, suspension from practice for a definite time, reprimand, or other discipline which the Court deems proper. Referral of a complaint to the Office of the General Counsel of the Oklahoma Bar Association for investigation shall not constitute such discipline as to entitle the attorney to a hearing in this Court on the propriety of the referral.

(f) **Committee on Discipline.** The Committee on Admissions and Grievances shall act as the Committee on Discipline. The Committee shall have the power to investigate all charges of professional misconduct referred to it by the Chief Judge. At the request of the Committee, the Clerk shall issue subpoenas and subpoenas duces tecum as may be required by the investigation.

The Committee shall complete its investigation within eight weeks from the date of referral from the Chief Judge. Upon good cause shown, the Committee may obtain extensions of time for investigation.

The Committee at the close of the investigation shall make a written report to the Chief Judge stating the discipline or other action recommended by the Committee. All disciplinary proceedings shall be in camera unless the three-judge panel shall direct otherwise.

(g) **Contempt of Court.** Disciplinary proceedings under this rule shall not affect or be affected by any proceeding for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.

(h) **Unauthorized Practice.** Any person who before admission to the bar of this Court or who during disbarment or suspension exercises any of the privileges bestowed upon members of this bar or who pretends to be entitled to such privileges shall be guilty of contempt of this Court and shall be subject to punishment therefor and shall be subject to any other discipline which the Court may impose.

(i) **Reinstatement.** Persons disbarred from practice before this Court may not petition for reinstatement within three (3) years following disbarment or within two (2) years following an adverse decision upon a previous petition for reinstatement; provided, however, that a person disbarred under subsection (a) may apply for reinstatement at any time upon being reinstated by the Oklahoma Bar Association. Persons suspended indefinitely must satisfy all conditions to reinstatement imposed by the Court at the time of suspension.

LCvR84.1 Bankruptcy Cases.

(a) **Matters Referred to the Bankruptcy Judges.**

(1) Pursuant to 28 U.S.C. §157(a), all cases under Title 11 of the United States Code and any and all proceedings arising under Title 11 or arising in or related to a case under Title 11 shall be and are hereby referred to the bankruptcy judges for this district.

(2) The bankruptcy judges shall hear and determine all cases under Title 11 and all core proceedings arising under Title 11 or arising in a case under Title 11, and may enter appropriate orders and judgments, subject to review under 28 U.S.C. §158; provided however that personal injury tort and wrongful death claims shall be tried in the district court in accordance with 28 U.S.C. §157(b)(5).

(3) The bankruptcy judges may hear a proceeding that is not a core proceeding but that is related to a case under Title 11. Resolution of such matters shall be governed by 28 U.S.C. §157(c).

(b) **Motions to Abstain or for Withdrawal of the Reference.**

(1) Motions to abstain from hearing a particular proceeding pursuant to 28 U.S.C. §1334(c) shall be first presented to and heard by the bankruptcy judge and shall be governed by Rules 5011 and 9014, Federal Rules of Bankruptcy Procedure.

(2) Motions for withdrawal of the reference of a case or proceeding shall be filed with the bankruptcy clerk within twenty days after service of summons in a proceeding or filing of any objection

in a case which renders a matter contested. Any responses to such motion shall be filed with the bankruptcy clerk within the appropriate response time.

(3) Upon receipt of any motion for withdrawal and associated responses, the bankruptcy judge, within a time period reasonable under the circumstances of the matter, shall issue a written recommendation on the motion.

(c) **Appeals.** All appeals from final judgments, orders and decrees of bankruptcy judges and, with appropriate leave, from interlocutory orders and decrees of bankruptcy judges shall be taken in the manner prescribed by 28 U.S.C. §158 and Part VIII of the Federal Rules of Bankruptcy Procedure.

(d) **Matters Referred to the Bankruptcy Judges Prior to Transfer to the District Court or Bankruptcy Appellate Panel.** The bankruptcy judges shall hear and enter appropriate orders on all motions related to appeals prior to the entry of the appeal on the docket in the district court or bankruptcy appellate panel, and shall hear all motions related to a motion for withdrawal of the reference prior to the entry of the certificate of transmittal of such motion for withdrawal on the docket of the bankruptcy court. Any orders entered by the bankruptcy judges during these time periods are subject to appropriate review or appeal pursuant to 28 U.S.C. §§157 and 158 and the Federal Rules of Bankruptcy Procedure.

(e) **Submission of Paper, Records or Files by the Bankruptcy Court.** The bankruptcy clerk shall submit the papers, record or file of a case or proceeding to the district clerk or bankruptcy appellate panel clerk under the following circumstances: (1) after the expiration of the time for filing objections pursuant to Fed. R. Bankr. Pro. 9033(b); (2) upon receipt of an order by a district judge pursuant to 28 U.S.C. §157(d); (3) upon issuance of a recommendation by the bankruptcy judge on a motion for withdrawal; (4) upon the determination by a bankruptcy judge that a proceeding is one in which a personal injury tort or wrongful death claim is to be tried in the district court pursuant to 28 U.S.C. §157(b)(5); or (5) when the record is complete for purposes of appeal pursuant to Fed. R. Bankr. Pro. 8007(b).

(f) **Assignment of District Judges.** The district court clerk shall assign a district judge to the submitted matter or proceeding in accordance with the usual system for assigning civil cases, unless a prior assignment of a related matter requires assignment of the newly submitted matter or proceeding to a particular district judge.

(g) **Jury Trials.** In accordance with 28 U.S.C. §157(e), if the right to a jury trial applies in a proceeding that may be heard by a bankruptcy judge, each of the bankruptcy judges for this district is hereby specially designated to exercise such jurisdiction and to conduct such jury trials.

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOCAL CRIMINAL RULES

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

B. LOCAL CRIMINAL RULES

I. SCOPE, PURPOSE AND CONSTRUCTION.

LCrR1.1 Purpose and Scope of Rules.

These local criminal rules are promulgated to supplement the Federal Rules of Criminal Procedure with local court procedure not to be inconsistent with the federal rules. These rules shall apply to all proceedings in criminal actions. The numbering scheme of the local criminal rules tracks the numbers and supplements the content of the Federal Rules of Criminal Procedure. Appendix I of the Local Court Rules contains a listing of General Orders which are available from the Court Clerk on request. These orders are issued by the Court to establish procedures on administrative matters and less routine matters that do not affect the majority of practitioners before this Court. Appendix V contains the form for Joint Statement of Discovery Conference.

LCrR1.2 Rules of Procedure.

(a) The rules of procedure in any criminal proceeding in this Court shall be as prescribed by the Constitution and the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local criminal court rules.

(b) Where in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe the same.

(c) The trial judge has discretion in any criminal case to waive any requirement of these local rules when the administration of justice requires.

(d) These rules supersede all previous criminal court rules promulgated by this Court or any judge of this Court. They shall govern all applicable criminal proceedings brought in this Court after they

take effect. They also shall apply to all criminal proceedings pending at the time they take effect, except to the extent that, in the opinion of the Court, the application thereof would not be feasible or would work an injustice.

(e) These local criminal rules shall be known as the Local Criminal Rules of the United States District Court for the Western District of Oklahoma. They may be cited as “LCrR____.”

LCrR1.3 Applicability of Local Civil Rules.

To avoid unnecessary repetition, where local rules are equally applicable to both criminal and civil practice, specific reference is made herein to the appropriate local civil rule. Where appropriate in a criminal context, the following local civil rules are also deemed applicable to criminal cases: LCvR62.2 Supersedeas Bonds and Other Security; LCvR67.1 Deposit and Withdrawal of Funds; LCvR67.2 Disbursement of Registry Funds.

II. PRELIMINARY PROCEEDINGS.

LCrR3.1 Criminal Case Cover Sheet.

A completed criminal case cover sheet, as provided by the Court Clerk’s Office, shall accompany every criminal case initiated in this Court.

LCrR4.1 Sealing of Warrants and Complaints.

Upon written application of the government, search warrants, criminal complaints, arrest warrants, and supporting affidavits may be sealed by order of a judicial officer. Seal orders shall automatically expire upon return being made on a search warrant or the initial appearance of any named defendant. The Court may extend a seal order for good cause shown by the government in either the original or a subsequent application. This rule shall apply to requested sealing of warrants, summons, affidavits, etc. under Fed. R. Crim. P. 9 and 41. (See also LCrR12.3 for Applications to Seal.)

LCrR5.1 Timing of Initial Appearances.

(a) Unless otherwise specifically set, initial appearances will be conducted by the duty

magistrate judge at 3:00 p.m. each business day. The following procedures are implemented to facilitate this docket:

(1) The government shall present complaints to the duty magistrate judge as early as possible, but no later than noon of each business day, absent exceptional circumstances;

(2) The arresting agency shall present a defendant in custody to the U.S. Marshal for processing no later than noon on the day of the defendant's first court appearance; and

(3) A written pretrial services report shall be presented to the duty magistrate judge and made available to defense counsel and the government by 2:30 p.m. on the day of the defendant's first court appearance.

(b) In the event an arrest occurs during regular business hours but at such time that the government is unable to comply with subsection (a)(1), the government shall promptly present the complaint to the duty magistrate judge, who shall schedule any necessary court appearance.

(c) This rule does not change the current procedure whereby the government may, when necessary, contact the duty magistrate judge or other available magistrate judge after regular business hours, or weekends and holidays.

LCrR5.1.1 Records of Recorded Preliminary Proceedings.

See LCrR12.2.

III. INDICTMENT AND INFORMATION.

LCrR7.1 Related Cases

Where an information or indictment is filed, and (1) that information or indictment arises out of the same transaction or series of transactions involved in a presently pending information or indictment in this District, or (2) that information or indictment involves the same defendant who has a presently pending information or indictment in this District, or (3) that information or indictment was dismissed and later refiled, or (4) there are other reasons that would entail substantial duplication of labor if heard by a different judge, the government shall notify the Court Clerk in writing and the matter shall be assigned to the judge having the low-numbered indictment or information, subject to the approval of the judges who would be affected by such assignment. The written notice by the government shall be on a form approved by the

Court. Immediately upon receipt of the related case notice, the Court Clerk shall notify the judge or judges assigned to the cases. Thereafter, the judges will determine whether the pending cases should be transferred to conserve judicial time and promote efficiency.

LCrR9.1 Sealing of Warrants or Summons upon Indictment or Information.

See LCrR4.1 and LCrR12.3 for procedure of sealing documents under this rule.

IV. ARRAIGNMENT AND PREPARATION FOR TRIAL.

LCrR10.1 Timing of Arraignments.

Unless otherwise specifically set, arraignments will be conducted by the duty magistrate judge at 3:00 p.m. each business day.

LCrR10.2 Setting of Trial Date at Arraignment.

After a plea of not guilty is entered in this District, the magistrate judge conducting the arraignment shall set a trial date on the first day of the trial docket following the 30-day period prescribed by the Speedy Trial Act, provided that trial settings must be consistent with the Constitution and the statutes of the United States.

LCrR11.1 Combined Plea and Sentence.

In order to obtain a plea and sentence at the same time, it is the responsibility of the party seeking the combined proceeding to submit an application and proposed order to the assigned judge. A judge may, but need not, accept an oral application and may waive presentation of a proposed order.

LCrR12.1 Pretrial Motions and Applications.

(a) **Time for Filing Pretrial Motions.** Unless otherwise ordered by the Court or addressed elsewhere by these rules, all pretrial motions, including requests for rulings on any contested matter of discovery, shall be filed and served within fifteen (15) days from the date a plea of not guilty is entered.

(b) **Response Time.** The party opposing the motion shall file and serve a response within seven (7) days after the motion is filed.

(c) **Motions in Writing.** Motions in criminal cases shall be in writing and state with particularity the grounds therefor and the relief or order sought. All motions and other pleadings shall conform to the requirements of LCvR5.1.

(d) **Concise Brief Required.** All motions and responses thereto must be accompanied by a concise brief citing all authorities upon which the movant or respondent relies. The length and format of briefs shall conform to LCvR7.1(c). A motion and the brief in support may be presented to the Court as one document if clearly stated in the caption of the pleading.

(e) **Extensions of Time and Continuances.** When filing applications for extensions of time or continuances, the requirements of LCvR7.1(f) are applicable.

LCrR12.2 Application for Playback of Electronic Sound Recordings.

Upon approval by the Court of a written application showing good cause, any party may be permitted to listen to a playback of any proceeding conducted before a magistrate judge on the Court's recording system. The applicant may also obtain a transcript, provided satisfactory arrangements are made with a certified shorthand reporter in accordance with 28 U.S.C. § 753(f) and a certified copy of the transcript is then filed.

LCrR12.3 Applications to Seal.

Any party requesting that any pleading, document, or other matter be filed under seal (such as ex parte or in camera motions, including in camera motions for downward departure of a sentence, if desired) shall file an application and proposed order with the assigned judge. A clearly identified envelope for sealing the matter shall be furnished at the time of filing the request.

LCrR12.4 Motions in Limine.

Any motion in limine shall be filed and served at least five (5) business days prior to the commencement of the scheduled trial docket. Any objections shall be filed two (2) business days prior to trial.

LCrR12.1.1 Notices of Defenses.

Notice of any of the defenses stated in Fed. R. Crim. P. 12.1, 12.2 or 12.3, shall be provided at the discovery conference or within fifteen (15) days from the date a plea of not guilty is entered.

LCrR16.1 Discovery Conference.

(a) **Time for Discovery Conference.** Counsel for the parties shall meet and confer at a discovery conference within ten (10) days after a plea of not guilty is entered.

(b) **Joint Statement.** Within three (3) days following completion of the required discovery conference, the parties shall file with the Court Clerk a joint statement memorializing the discovery conference. (The Joint Statement of Discovery Conference shall conform to the form provided herein as Appendix V.)

LCrR16.2 Disputed Discovery Matters.

Under Rule 16 of the Federal Rules of Criminal Procedure, it is expected the parties will complete discovery themselves, and that the necessity of filing discovery motions is eliminated except when disputes arise. Discovery orders are hereby eliminated except when irreconcilable disputes arise. The Court shall not hear any such motion unless counsel for the movant certifies in writing to the Court that the opposing attorneys have conferred in good faith and have been unable to resolve the dispute.

VI. TRIAL.

LCrR24.1 Voir Dire.

Requested voir dire, if any, shall be filed and served at least five (5) business days prior to the commencement of the scheduled trial docket. Any objections shall be filed at least two (2) business days prior to the commencement of the scheduled trial docket.

LCrR24.2 Summary of the Indictment at Trial.

The parties shall submit an agreed summary of the indictment to the Court prior to the trial or the entire indictment may be read to the jury.

LCrR26.1 Lists of Witnesses and Exhibits at Trial.

(a) **Lists of Witnesses and Exhibits.** At the commencement of the trial, counsel for the government shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the witnesses expected to be called in the approximate order they are to be called, as well as a typewritten list of the exhibits intended to be introduced, with their designated trial exhibit numbers.

(b) **Stipulations and Exhibits at Trial.** Consistent with the applicable Federal Rules of Criminal Procedure and whenever it can be done without jeopardizing the constitutional rights of the defendant in a criminal case, stipulations should be made with respect to the undisputed facts and the authenticity of documents. Each instrument expected to be offered in evidence by either side (or copies of such instrument, if agreeable), shall be marked with an exhibit number and a case number prior to trial. Forms for marking exhibits may be obtained in the Court Clerk's Office.

(c) **Withdrawal of Exhibits.** Unless otherwise ordered by the Court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The Court may order the party introducing exhibits that are bulky, heavy, or are firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.

(d) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings on a blackboard may, under the supervision of the Court, be photographed for use on appeal or otherwise.

LCrR30.1 Jury Instructions.

All requested jury instructions must be supported by appropriate authority and shall be filed and served at least five (5) business days prior to the commencement of the scheduled trial docket. Any objections to jury instructions shall be filed at least two (2) business days prior to the commencement of the scheduled trial docket. In addition to filing any written requested jury instructions, they may also be submitted on a 3 ½ -inch diskette on a court compatible WordPerfect format in a clearly marked envelope attached to the paper copy at the time of filing.

IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS.

LCrR41.1 Sealing of Warrants for Search and Seizure Proceedings.

See LCrR4.1 and LCrR12.3 for procedure for sealing of warrants, etc., under this rule.

X. GENERAL PROVISIONS.

LCrR43.1 Issuance of Writs for Defendants.

It is the responsibility of the government to prepare writs for appearance of defendants in custody.

LCrR44.1 Plan Pursuant to the Criminal Justice Act for the Representation of Indigent Defendants.

The Federal Public Defender Organization, supervised by the Federal Public Defender, shall assist in the administration of the Court's Criminal Justice Act Plan and maintain a panel(s) of eligible attorneys. (See General Order 98-1, In Re: Plan of the United States District Court for the Western District of Oklahoma for the Implementation of the Criminal Justice Act, Title 18, United States Code, Section 3006A.)

LCrR44.2 Claims for Compensation Regarding Indigent Defense Fees.

All Criminal Justice Act (CJA) vouchers shall be submitted within forty-five (45) days after a case is dismissed or after a defendant is sentenced. Any voucher submitted beyond forty-five (45) days and less than one (1) year after the case is dismissed or after a defendant is sentenced shall be accompanied by a letter demonstrating good cause why the voucher should be paid. Any application, letter or vouchers submitted more than one (1) year after the case is dismissed or after a defendant is sentenced shall be summarily denied.

LCrR46.1 Issuance of Writs for Witnesses in Custody.

It is the responsibility of the party calling the witness to prepare writs for appearance of witnesses in custody.

LCrR47.1 Motion Practice.

See LCrR12.1.

LCrR49.1 General Format of Papers Presented for Filing; Change of Address; Proof of Service.

LCvR5.1 applies to criminal cases.

LCrR49.2 Facsimile Filing.

LCvR5.2 applies to criminal cases.

LCrR50.1 Plan for Achieving Prompt Disposition of Criminal Cases.

This Plan was adopted by the Court to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings. It requires certain procedures, specifies certain time limits, imposes specific duties and responsibilities on counsel and fosters compliance with the Speedy Trial Act. (See General Order 98-2, In Re: Plan for Achieving Prompt Disposition of Criminal Cases.)

LCrR53.1 Courtroom Decorum.

LCvR39.2 applies to criminal cases.

LCrR53.2 Use of Electronic Devices, Photographs or Tape Recorders at Trial.

LCvR39.3 applies to criminal cases.

LCrR53.3 Attorney Communication with Jurors.

LCvR47.1 applies to criminal cases.

LCrR57.1 Committee on Local Criminal Court Rules.

The Court hereby constitutes a committee on local criminal rules comprised of five (5) members of the bar of this Court whose practice is primarily criminal, including as permanent members, the U.S. Attorney and the Federal Public Defender of this District, or their designees. The Court Clerk or the Clerk's designee shall also be a permanent member of the committee. The Chief Judge shall appoint committee members for terms of no more than three (3) years.

This committee is established for the purpose of receiving comments and recommendations from any member of the Bar of this Court or any other interested person, as well as updating these rules on a regular basis. The committee shall meet annually or as necessary.

LCrR57.2 Attorneys.

(a) **Applicability of Civil Rules.** The provisions of LCvR83.2(a) Roll of Attorneys, (b) Committee on Admissions and Grievances, (c) Procedure for Admission, (d) Eligibility, and (e) Reciprocity; LCvR83.5 Attorney Withdrawal from Case; and LCv83.6 Discipline by the Court are applicable to these local criminal rules and are not repeated. Certain other provisions are repeated for emphasis.

(b) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this Court in all cases or proceedings in which they represent the United States or such agencies.

(c) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the Bar of this Court may in the discretion of a judge of this Court be granted temporary admission to practice in a pending case. Attorneys requesting such admission are required to attach to their application a completed Request for Admission Pro Hac Vice form provided by the Court Clerk's office along with a required \$25.00 fee.

LCrR57.3 Association of Local Counsel.

(a) **Responsibilities of Non-Resident Counsel.** When representing a party in this Court, any attorney who is not a resident of, and does not maintain an office in Oklahoma, shall show association with an attorney who is personally appearing in the action and who is a resident of the State and maintains a law office within the State of Oklahoma, and who has been duly and regularly admitted to practice in this Court.

(b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any criminal case to file the application of the non-resident attorney to be admitted pro hac vice and to certify in the application that the non-resident attorney is a member in good standing of the Bar of the highest court of the state where the non-resident attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading or other paper may be served upon the local attorney with the same effect as if personally served on the non-resident attorney.

(c) **Relief from this Rule.** Relief from this rule is within the Court's discretion upon application establishing financial hardship, special qualifications of non-resident counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local court rules.

LCrR57.4 Appearance of Counsel.

(a) **Entry of Appearance Form.** An attorney appearing for either the government or the defense in a criminal case shall enter an appearance by signing and filing an entry of appearance on a form prescribed by the Clerk of this Court.

(b) **Change of Counsel.** In the event the government or any defendant should change counsel or add additional counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Clerk of this Court.

(c) **Limited or Special Appearances.** Limited or special appearances in criminal cases are disfavored by the Court and shall not be permitted except upon prior approval of the judicial officer.

LCrR58.1 Magistrate Judges - Misdemeanor Authority.

Each full-time and part-time United States magistrate judge appointed by this Court is specifically designated to exercise the authority and jurisdiction provided by 18 U.S.C. § 3401(a) to try persons accused of, and sentence persons convicted of, misdemeanors committed within this District.

LCrR58.2 Forfeiture of Collateral in Lieu of Appearance.

As provided in Fed. R. Crim. P. 58(d)(1), a person who is charged with a petty offense as defined in 18 U.S.C. § 19, may in lieu of appearance, post collateral in the amount indicated for the offense and consent to forfeiture of collateral. The offense for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are generally stated on the charge (violation notice) and are contained in written schedules approved by this Court and on file with the Court Clerk.

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

**APPENDICES
TO
LOCAL COURT RULES**

APPENDIX I

GENERAL ORDERS

[Reference: LCvR1.1; LCvR16.3 Supp. §1.1; LCrR1.1]

The following General Orders will be provided by the Clerk upon request:

- G.O. 96-1** General Order Regarding Assignment of Cases and Transfer of Related or Companion Cases
- G.O. 96-3** General Order Regarding Land Condemnation Cases Filed by the United States
- G.O. 96-4** General Order Authorizing the use of the Bankruptcy Appellate Panel to Hear and Determine Bankruptcy Appeals Originating in the District
- G.O. 96-6** General Order Assessing Local Attorney Admissions Fees
- G.O. 96-7** General Order Regarding Presiding Judge Authorization Over Interceptions of Wire or Oral or Other Forms of Communication or Investigatory Matters Arising Under Chapter 119 of Title 18 and Matters Under Investigation by the Grand Jury; Applications for Pen Registers and Other Forms of Communications Under Chapter 206 of Title 18
- G.O. 98-1** General Order Regarding Plan of the United States District Court for the Western District of Oklahoma for the Implementation of the Criminal Justice Act, Title 18, United States Code, Section 3006A
- G.O. 98-2** General Order Regarding the Plan for Achieving Prompt Disposition of Criminal Cases
- G.O. 98-3** General Order for Special Settlement and ADR Procedures for Patent, Copyright, or Trademark Cases
- G.O. 98-4** General Order Regarding Guidelines for Resolving Scheduling Conflicts with Oklahoma Federal Courts and State Courts
- G.O. 99-1** General Order Regarding Court Reporters Plan for Management of Court Reporting Services
- G.O. 99-2** General Order Regarding Court Referral and Assignment of Civil Cases for Judicial Settlement Conference

- G.O. 00-1** General Order Regarding the Plan of the United States District Court for the Western District of Oklahoma for the Implementation of the Criminal Justice Act, Title 18, United States Code, Section 3006A
- G.O. 00-2** General Order Regarding Selection, Qualifications and Compensation of Court-Appointed Federal Panels Pursuant to Local Rule 16.3 Supp. § 2.1, et seq., Plan for Alternative Dispute Resolution and Settlement Procedures
- G.O. 00-3** General Order Regarding Random Selection of Grand and Petit Jurors.

APPENDIX II
[Reference LCvR16.1(a)(1) and 16.3(c)]

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

_____)	
Plaintiff)	
)	
vs.)	Case No. _____
)	
_____)	
Defendant)	

JOINT STATUS REPORT

Date of Conference: _____, _____.

Appearing for Plaintiff: _____

Appearing for Defendant: _____

JURY TRIAL DEMANDED _____ NONJURY TRIAL _____

1. **BRIEF PRELIMINARY STATEMENT.** State briefly and in ordinary language the facts and positions of the parties to inform the judge of the general nature of the case.
2. **JURISDICTION.** The basis on which the jurisdiction of the Court is invoked.
3. **STIPULATED FACTS.** List stipulations as to all facts that are not disputed or reasonably disputable, including jurisdictional facts.
4. **LEGAL ISSUES.** State separately, and by party, each disputed legal issue and the authority relied upon.
5. **CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT.**
 - A. Plaintiff
 - B. Defendant
6. **MOTIONS PENDING AND/OR ANTICIPATED** (including date of filing, relief requested, and date responsive brief to be filed).
7. **EXHIBITS.**
 - A. Plaintiff

			Federal Rule of
<u>Number</u>	<u>Title/Description</u>	<u>Objection</u>	<u>Evidence Relied Upon</u>

B. Defendant

<u>Number</u>	<u>Title/Description</u>	<u>Objection</u>	<u>Federal Rule of Evidence Relied Upon</u>
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8. WITNESSES.

A. Plaintiff:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
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B. Defendant:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
-------------	----------------	---------------------------

9. ESTIMATED TRIAL TIME: For liability _____ For damages _____

10. BIFURCATION REQUESTED: Yes ____ No ____

11. POSSIBILITY OF SETTLEMENT:

Good _____ Fair _____ Poor _____

12. SETTLEMENT AND ADR PROCEDURES:

A. Compliance with LCvR16.3(c) ADR discussion: yes__ no__

B. The following early settlement, ADR or other dispute resolution process is selected:

- ☐ Mediation
- ☐ Early Neutral Evaluation
- ☐ Non-Binding Arbitration: __Mandatory; __Consensual;
- ☐ Certify Damages are over \$100,000.00
- ☐ Case not otherwise eligible for mandatory arbitration. Please specify: _____
- ☐ Other _____

C. "Cost Reduction Trial Track". (If this "track" is selected prior to the Status/Scheduling Conference, only sections 1, 2, 12 and 26 are required. Counsel may include the other information, if counsel agree, as well as the Agreement to adopt this "track".)

D. If no selection is made, please state reasons and be ready to discuss at the Status Conference. (An early Judicial Settlement Conference should only be considered when the prospects of a fruitful settlement exist.)

13. Parties Consent to Trial by Magistrate Judge. Yes ____ No ____

14. Management Plan Requested. Standard _____ Specialized _____
(If specialized plan requested, counsel should include a statement of reasons and proposal for management.)

15. Compliance with Fed. R. Civ. P. 26(a)(1). Yes ____ No ____

Submitted this _____ day of _____. _____.

Counsel for Plaintiff

Counsel for Defendant

APPENDIX II-A
[Reference LCvR16.1(a)(1) and 16.3(c)]

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

_____)	
Plaintiff)	
)	
vs.)	Case No. _____
)	
_____)	
Defendant)	

JOINT DISCOVERY PLAN

Date of Discovery Planning Conference: _____, _____.

1. The parties anticipate that discovery will be needed on the following subjects:

2. The parties anticipate submitting initial written discovery requests under Fed. R. Civ. P. 33, 34 and/or 36 by _____ (date).

3. The parties anticipate that depositions will be needed for the following witnesses:

(If the parties anticipate that they will need more than seven hours to complete any of these depositions, please state in detail the reasons that more than seven hours may be needed and whether the parties agree that the time for the deposition should extend beyond seven hours)

4. Describe whether the parties believe discovery should be conducted in phases or be limited to or focused upon particular issues, and if so, describe the particularized discovery plan requested.

5. The parties anticipate that discovery should be completed within _____ months.

6. State whether the parties request any changes in the timing, form, or requirement for disclosure under Rule 26(a), and if so, state when disclosures under Rule 26(a)(1) were made or will be made:
7. If the parties currently anticipate a need for protective orders Rule 26(c), state the reasons such orders may be needed.
8. Identify the minimum discovery necessary prior to mediation or other A.D.R., and state the approximate time needed by the parties in order to complete that minimum discovery.

Submitted this _____ day of _____.

Counsel for Plaintiff

Counsel for Defendant

APPENDIX III
[Reference LCvR16.1(b)(1)(B)]

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

)	
Plaintiff)	
)	
vs.)	Case No. _____
)	
)	_____ Trial Docket
Defendant)	

SCHEDULING ORDER

Date _____ Judge _____ Clerk _____

Appearing for Plaintiff _____

Appearing for Defendant _____

Jury Trial Demanded _____ Non-Jury Trial _____

THE FOLLOWING DEADLINES ARE SET BY THE COURT

- | | |
|--|---|
| <p>1. Motions to join additional parties to be filed by _____.</p> <p>2. Motions to amend pleadings to be filed by _____.</p> <p>3. (a) Plaintiff to submit to defendant final list of expert witness(es) in chief and expert reports by _____.*</p> <p>(b) Defendant to submit to plaintiff final list of expert witness(es) in chief and expert reports by _____.*</p> <p>4. (a) Plaintiff to submit to defendant final list of witnesses in chief, including expert witnesses, together with addresses and brief summary of expected testimony where witness has not already been deposed by _____.*</p> <p>(b) Defendant to submit final list of witnesses (as described above) 10 days thereafter.*</p> | <p>5. (a) Plaintiff to submit to defendant final exhibit list and any exhibits not previously submitted by _____.*</p> <p>(b) Defendant to submit final exhibit list and any exhibits not previously submitted 10 days thereafter.*</p> <p>*[The exchange of witnesses and exhibits shall be by letter with two copies of the letter of transmittal to be submitted to the Clerk of this Court for filing. Except for good cause shown, no witness shall be permitted to testify and no exhibit will be admitted in any party's case in chief unless such witness or exhibit was listed in the letter of transmittal.]</p> <p>6. Discovery to be completed by _____.</p> <p>7. All dispositive motions to be filed by _____.</p> |
|--|---|

8. Trial docket _____**

****[Trial dockets generally begin the second Monday of each month; however, this practice varies, particularly during holidays. The published trial docket will announce the trial setting.]**

9. Motions in limine to be filed by _____.
Responses due 5 days thereafter.

10. Required voir dire to be filed by _____.

11. Trial briefs to be filed by _____.

12. Requested jury instructions to be filed on or before _____.**

13. NON-JURY CASES ONLY: Proposed findings and conclusions of law to be filed no later than _____.**

16. This case is referred to the following ADR/settlement process
_____ by agreement of the parties;
_____ by Order/Approval of the Court:

- (a) ___ Mediation;
- (b) ___ Early Neutral Evaluation;
- (c) ___ Non-Binding Arbitration: ___ Mandatory; ___ Consensual
___ Exempted by Court
- (d) ___ "Cost Reduction Trial Track"
- (e) ___ Other _____.

The session or hearing shall be held on, by or between _____.

17. Please note that a judicial settlement conference will be scheduled in every case by the settlement magistrate judge before the scheduled trial date.

18. _____The parties consent to trial by a Magistrate Judge.

19. Voluntary disclosure pursuant to LCvR26.2 has been made _____;
is excused _____; or shall be made no later than _____.

*****[The parties are encouraged, but not required, to submit their proposed jury instructions or findings of fact and conclusions of law not only in paper form for filing, but also on a 3½-inch diskette in a court compatible Word Perfect format. The disk should be placed in an envelope and attached to the COPY of the jury instructions or proposed findings of fact and conclusions of law, whichever is applicable, when filing.]**

14. Any objections to the above trial submissions to be filed 5 days thereafter.

15. Proposed final pretrial report, approved by all counsel, **and in full compliance** with Local Rules (see Appendix IV), to be submitted to the Court by _____.

20. Other: _____

BY ORDER OF THE COURT
ROBERT D. DENNIS, CLERK

By: _____
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

FINAL PRETRIAL REPORT

B. Defendant:

<u>Number</u> (Pre-marked for trial)	<u>Title/Description</u>	<u>Objection</u>	<u>Federal Rule of Evidence Relied Upon</u>
---	--------------------------	------------------	---

7. WITNESSES. The following exclusionary language **MUST** be included:

No unlisted witness will be permitted to testify as a witness in chief except by leave of Court when justified by exceptional circumstances.

A. Plaintiff:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
-------------	----------------	---------------------------

B. Defendant:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
-------------	----------------	---------------------------

8. ESTIMATED TRIAL TIME: For liability _____ For damages _____

9. BIFURCATION REQUESTED: Yes ____ No ____

10. POSSIBILITY OF SETTLEMENT:

Good _____ Fair _____ Poor _____

All parties approve this report and understand and agree that this report supersedes all pleadings, shall govern the conduct of the trial, and shall not be amended except by order of the Court.

Counsel for Plaintiff

Counsel for Defendant

APPENDIX V
[Reference LCrR16.1(b)]

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	CR-_____
v.)	
)	
Defendant(s).)	

JOINT STATEMENT OF DISCOVERY CONFERENCE

This joint statement is submitted pursuant to LCrR16.1(b).

1. Date Conference Held: _____,
within ten (10) days of the appearance before Magistrate Judge _____ where a plea of not guilty was
entered.

2. Names of the attorneys who attended the conference:

U.S. Attorney/AUSA _____

Defense Attorney _____

Retained __ ; Appointed: Federal Public Defender/Assistant FPD __ or Panel Member __

Counsel met for purposes of exchanging discovery materials in accordance with the Federal Rules of Criminal Procedure as supplemented by the Local Criminal Court Rules and any orders of this Court and, as a result of the conference, the undersigned counsel report the following:

3. The specific time, date and place at which the offense(s) charged is/are alleged to have been committed:

4. (a)(1) Any contested issues of discovery and inspection raised by counsel for plaintiff:

(2) Any contested issues of discovery and inspection raised by counsel for defendant:

(b) Any additional discovery or inspection desired by either party:

5. The fact of disclosure of all materials favorable to the defendant or the absence thereof within the meaning of Brady v. Maryland and related cases:

Counsel for plaintiff expressly acknowledges continuing responsibility to disclose any material favorable to defendant within the meaning of Brady that becomes known to the Government during the course of these proceedings.

6. The fact of disclosure of the existence or nonexistence of any evidence obtained through electronic surveillance or wiretap:

7. The fact of disclosure of the contemplated use of the testimony of an informer. (Include only the fact an informer exists and not the name or testimony thereof):

8. The fact of disclosure of the general nature of any evidence of other crimes, wrongs, or acts the government intends to introduce at trial pursuant to Fed. R. Evid. 404(b):

9. The fact of disclosure of the prior felony convictions of any witness the government intends to call in its case-in-chief:

10. The resolution, if any, of foundational objections to documentary evidence to be used by both parties (except for the purpose of impeachment):

11. The resolution, if any, of chain-of-custody matters (where at issue):

12. The resolution, if any, of the admissibility of any reports containing scientific analysis without requiring the expert's attendance at trial:

13. The parties will provide each other with the opportunity to inspect any demonstrative evidence, representational exhibits or charts.

Counsel for both parties state that presently there are no additional matters of discovery presently known.

Counsel expressly acknowledges the obligation to produce these item(s) as soon as practicable, but in no event later than ten (10) days prior to the trial of this cause. Counsel also expressly acknowledges continuing obligation to disclose any materials that become known to counsel during the course of the pretrial investigation of this cause.

14. Notice of Alibi:

15. Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition:

16. Notice of Defense Based on Public Authority:

At the conclusion of this conference, counsel conferred concerning the contents of this joint statement.

Respectfully submitted,

United States Attorney

Assistant U.S. Attorney
(address)
(telephone number)

Counsel for Defendant
(address)
(telephone number)

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